

Minnesota Board of Nursing

For Your Information



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- ♦ Phone number:
612-317-3000
- ♦ Fax number:
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- ♦ Web site

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President's Message: Deb Haagenson, RN



In April the Board of Nursing adopted a new strategic plan for fiscal years 2017 – 2019. One of the objectives in that plan is to promote solutions to address borderless health care delivery.

The reality of modern health care delivery requires nurses to be able to support their patients in person or remotely through telehealth when patients are located in another state.

In May of 2015 the National Council of State Boards of Nursing (NCSBN) adopted an enhanced Nurse Licensure Compact. A Nurse Licensure Compact (NLC) for RNs and LPNs has been in place in the United States since 1997. The NLC, when adopted by state legislatures, allows mutual recognition of a nursing license between other NLC member states. Nurses who reside in and are licensed in a compact state are able to practice in other compact states.

One of the strengths of the new enhanced NLC is the inclusion of uniform and more stringent eligibility requirements for RNs and LPNs who seek and maintain a multi-state privilege to practice. While states will continue to establish requirements for single-state practice, the requirements for multi-state practice will now be standard across states. Some of the eligibility requirements for multi-state practice include:

- Holds an active unencumbered license.
- Has submitted fingerprint or other biometric data for purposes of obtaining a criminal background check.
- Has not been convicted or found guilty of a felony offense.
- Has not been convicted or found guilty of a misdemeanor offense related to the practice of nursing.
- Is currently not enrolled in an alternative to discipline program.
- Is subject to self-disclosure requirements regarding current participation in an alternative program.

The above eligibility requirements in the enhanced NLC are specific to a multi-state privilege to practice. Nurses who do not meet the above requirements may still be granted a single-state license to practice, at the discretion of the Board of Nursing.

States participating in the enhanced NLC are also required to provide nurse licensure, investigative and disciplinary action information to a comprehensive national database. This supports patient safety by providing the ability of all participating states to have timely access to information about nurses with a multi-state privilege practicing in their state.

Twenty-five state legislatures, including our neighbors in North Dakota, South Dakota, Iowa and Wisconsin, have previously enacted the NLC. Consideration of NLC in the past has not been without concern in Minnesota.

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Minnesota Board of Nursing Annual Discipline Report: Fiscal Year 2015

Minnesota Statutes sections 148.171 – 148.285 provides the Board of Nursing with authority to regulate nursing practice for the purpose of public protection. Within this authority, the Board's mission is to protect the public's health and safety through regulation of nursing education, licensure and practice. In pursuing its mission, the Board receives and investigates complaints and takes disciplinary action against nurses and nurse licensure applicants whose conduct violates the Nurse Practice Act. Disciplinary actions taken by the Board may include removing nurses from practice who pose a risk to patient safety and monitoring nurses whose practice requires remediation and oversight. Each fiscal year, the annual Minnesota Board of Nursing Discipline Report is reported to the Board. This article contains highlights of that report.

Complaints

The Board holds a duty to review all complaints received. First, the complaint is reviewed to determine if the Board has jurisdiction over the conduct and individual is reviewed. To have jurisdiction over a complaint, the complaint must (1) allege conduct by an individual who is either licensed or has applied for licensure by the Board; and (2) allege conduct that, if true, would constitute a violation of the Nurse Practice Act. Non-jurisdictional complaints are dismissed and may be referred to other agencies that may have jurisdiction over the complaint.

In FY2015, the Board received 1552 complaints, down 103 from the previous year. Over the past five years, complaint numbers have trended steadily downward, dropping 15.9% from FY2011 to FY2012, 7.6% from FY2012 to FY2013, 10.8% from FY2013 to FY2014, and 5.2% from FY2014 to FY2015.

Primary Grounds of Complaints

Failure or inability to provide safe and skillful nursing is the ground most often alleged at 28% of complaints, matching last year's percentage. Violation of a Board order, state or federal law relating to nursing practice, reports of maltreatment, and failure to pay taxes all fall under the second-most common primary grounds for discipline, totaling 18% of all complaints. Unique to this year, failure to inform the Board of a person's APRN certification constituted 17.6% of all complaints. Failure to demonstrate qualifications for licensure constituted 10% of all complaints, equal to the proportion of FY2014 complaints. Finally, inability to practice safely due to illness, chemical use, or other mental or physical conditions represented only 8.7% of complaints, down from 15% of complaints in FY14.

Open Complaints at end of FY 2015

At the end of each fiscal year, the Board tabulates the number of complaints that remain open and assesses the age of each complaint. In three of the previous four years, approximately 90% of the open complaints were less than 12 months old. At the end of FY2015, 95% of open complaints were less than one year old.

Disciplinary Procedures

If a complaint is determined to be jurisdictional, a disciplinary procedure is initiated that varies dependent on the nature and severity of the complaint. The Board may dismiss the complaint outright as being insufficient to warrant disciplinary action; request waivers for or subpoena health and employment records; send an inquiry letter to the licensee requesting an explanation of the alleged activities; initiate a discipline conference; initiate the administrative hearing procedure; or offer a stipulation and consent order. All of these actions are taken with the aim of identifying the underlying source causing the complaint in order to appropriately remedy the situation and thereby protect the public.

Minnesota Board of Nursing Annual Discipline Report: Fiscal Year 2015 continued

Conferences are scheduled based on Board member, Attorney General, and licensee availability. While more than 60 conferences are scheduled each month, about 35 conferences were actually held each month in FY2015. This is equal to FY2014's monthly average. The difference in scheduled conferences and conferences held is largely due to rescheduling requests on behalf of licensees or licensees failing to appear.

The Board strives to reach a mutually agreeable resolution without proceeding to a hearing. However, hearings become necessary if the Board and the licensee cannot reach a mutually agreeable resolution, a licensee fails to appear for a conference, or the allegations are of such a serious nature as to require swift action.

Most often, the Board resolves complaints without proceeding to a hearing. In FY2015, 1171 complaints were resolved without a hearing; 57 cases went to an administrative hearing.

Complaint Dispositions

Depending on the nature and severity of a complaint, the Board will dispose of the complaint in one of the following manners:

- **Dismissal:** A complaint may be dismissed if the Board decides that the complaint is so minor or lacking evidence that pursuing discipline is not justified.
- **Referral to HPSP:** If, while investigating a complaint, the Board learns of chemical use/abuse or mental health issues that have not impacted the licensee's practice but warrant monitoring, the Board may dismiss the complaint contingent on the licensee agreeing to HPSP monitoring.
- **Agreement for Corrective Action:** If the complaint arises from minor knowledge deficits, the Board may agree to an Agreement for Corrective Action. This is a non-disciplinary, but public, agreement for the licensee to obtain additional education through continuing education courses or consultations.
- **Disciplinary Action:** If the complaint warrants public action in order to serve public safety, the Board will issue an order, either stipulated to by the licensee or issued following a hearing, imposing discipline on the licensee.
- **Stipulation to Cease Practicing Nursing:** The Board enters stipulations to cease practicing nursing with licensees on occasions where it is prudent for the Board to postpone the discipline process in exchange for the licensee agreeing to cease practicing nursing. Often, these situations involve ongoing criminal matters. The Board resumes the investigation and disciplinary process once the incident giving rise to the stipulation has resolved.

The following chart breaks down disciplinary proceedings for the last five fiscal years.

Complaint Dispositions FY2011-FY2015					
Action	FY2011	FY2012	FY2013	FY2014	FY2015
Dismissed/Closed	73%	78%	77%	72%	67%
Disciplinary Actions	22%	19%	19%	23%	27%
Referred to HPSP	1%	2%	1%	3%	2%
Agreement for Corrective Action	3%	1%	2%	1%	3%
Stipulation to Cease Practicing	1%	<1%	<1%	<1%	<1%
Total Actions	1573	1805	2055	1654	1228

Minnesota Board of Nursing Annual Discipline Report: Fiscal Year 2015 continued

The Board disposed of significantly fewer cases than in previous years. This is most likely due to the lower number of complaints and lower percentage of dispositions that were dismissed/closed.

Disciplinary Actions

The Board utilizes many forms of discipline ranging in severity from a reprimand to revocation of license. The breakdown of each type of disciplinary action is set forth in the table below.

Disciplinary Actions FY2011-FY2015					
Action	FY2011	FY2012	FY2013	FY2014	FY2015
Reprimand/Civil Penalty	10%	12%	7%	7%	8%
Conditional License	4%	5%	6%	6%	8%
Limited License	3%	3%	3%	3%	2%
Stayed Suspension	16%	15%	16%	19%	16%
Voluntary Surrender	11%	10%	12%	8%	12%
Suspension (Disciplinary)	39%	32%	32%	40%	36%
Denial of License, etc.	3%	4%	2%	2%	4%
Revocation	2%	3%	2%	2%	3%
Total Disciplinary Actions	353	339	399	381	329

The proportion of disciplinary actions for each type of action has remained fairly constant throughout the past five fiscal years. Suspension has been the most common form of disciplinary action, with stayed suspensions and voluntary surrenders being the second- and third-most common.

The Board takes its mission to protect the public earnestly and is always searching for methods to improve its efficiency and outcomes. For the most part, the overall breakdown of complaint types, sources, and dispositions remains very similar to previous years, with no new trends emerging that should be perceived as predictive of future patterns. This past year, the Board dramatically increased the efficiency with which it acts on and resolves Temporary Suspension cases. The Board continues to evaluate its discipline process and strive for excellence in producing results that benefit public safety.

A full copy of the report may be found on the Board website <http://mn.gov/boards/nursing/resources/reports/>

Investigation of Reports to the Board

The vast majority of nurses are safe, ethical, competent practitioners. Nationally, only a little over 2.5% of all nurses have been disciplined. (National Nursing Database, 2013). However, some nurses lack the ability to consistently practice nursing in a safe manner, whether due to incompetence, impairment, or lack of knowledge. In some cases, poorly designed systems or practices or equipment causes a nursing practice breakdown, at times resulting in significant patient harm or death. There are state laws that use the threat of licensure action as leverage to influence compliance with unrelated laws, such as payment of child support or filing tax returns. Any of these situations may result in a report or complaint being registered with the state board of nursing (BON). BONs protect the public by licensing nurses, overseeing their practice, and enforcing the state laws that govern nursing practice. Part of this public-protection responsibility includes providing an objective forum for resolving complaints against nurses. How the Minnesota Board of Nursing investigates and resolves complaints regarding nursing practice is often poorly understood by nurses, employers, and patients. This article will focus on the process of complaint investigation.

Upon receipt of a complaint, Board staff review the information provided and determine whether the complaint is within the authority of the Board to take action and what additional information, if any, will help Board members determine whether there is a violation of the Nurse Practice Act and the best course of action. In many cases, the Board needs additional records. The records obtained during the investigation will be narrowly tailored to the allegations and may include:

- Employment records
- Medical records of nurse or patient
- Pharmacy and Prescription Drug Monitoring program records
- Controlled substance inventory logs
- Court records and police reports
- School records
- Reports from other agencies (MN Department of Health or Department of Human Services)
- Bank records
- Facility documents such as policies, procedures, organizational charts and position descriptions
- Electronic health records or data from automated medication dispensing machines

It may be necessary to obtain information from the individuals involved in an alleged incident. This may require interviews or obtaining written statements from the nurse, the patient or victim, supervisors and coworkers, witnesses or collateral contacts. Inspection of the practice site or location of the alleged incident may be needed. The Board will review audio and video recordings when they are available. In addition to Board staff, the Board utilizes investigators from the Office of the Attorney General to gather this information.

Some complaints, particularly those involving specialized areas of nursing, may require additional resources. The Board may consult with an individual with expertise in a specific area of nursing to render an opinion on standards of practice. The Board may also obtain forensic data such as substance use disorder, mental health, physical and/or neuropsychological evaluations of the nurse, forensic analysis of computers (home, work, mobile devices and EHRs), or urine, hair or blood testing for the presence of drugs. The drug testing may also involve a patient to determine if drugs that were reported to have been administered can be detected within the patient's body.

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In many cases, the Board will conduct an in-person meeting or conference with the nurse. The purpose of the conference is to obtain additional information, to allow the nurse to tell his or her “side of the story” and to reach an agreement for the outcome of the case, if possible. The conference will be conducted by a Review Panel comprised of a member of the Board staff and a Board member, advised by an Assistant Attorney General. The nurse may hire an attorney at his or her own expense. The conference is confidential and no witnesses are present.

If a settlement is offered and the nurse agrees with the proposed order, the full board reviews and enters it as a final order. If the nurse does not agree with the proposed order, the nurse may request changes for the Review Panel’s consideration. The stipulated agreement will include recitations that the nurse understands and agrees to the terms of the order, the consequences for noncompliance and a statement regarding disclosure or publication of the order.

If the Board has been unable to locate the nurse, the nurse has refused to cooperate or the nurse declines to agree to an informal settlement, the Board will initiate a formal administrative hearing. In the hearing, the prosecutor presents evidence to meet the state’s standard of proof that the nurse has violated the practice act and that disciplinary action is needed to protect the public. The nurse presents the defense. An administrative law judge presides over the hearing and issues a report containing findings of fact and conclusions of law. The Board considers all of the evidence and issues a final order. The nurse may appeal the decision of the Board following the hearing.

Subsequent articles will discuss the types of actions that may be taken by the Board and the steps following an action by the Board.

References

Cronquist, R. (2013). Management of Complaints Against Nurses: Review, Investigation, Action, Resolution. *Journal of Nursing Regulation*, Vol. 4, Issue 1, April 2013.

National Nursing Database (2013). Retrieved from <https://www.ncsbn.org/3873.htm>

Center for Disease Control Issues New Guidelines for Prescribing Opioids for Chronic Pain

The guideline provides recommendations for primary care clinicians who are prescribing opioids for chronic pain that is outside of active cancer, palliative and end of life care. The guideline addresses 1) when to initiate or continue opioids for chronic pain; 2) opioid selection, dosage, duration, follow-up, and discontinuation; and 3) assessing risk and addressing harms of opioid use. The full guideline may be accessed on the CDC website with this link <http://www.cdc.gov/mmwr/volumes/65/rr/rr6501e1.htm>.

Advanced practice registered nurses (APRNs), as prescribers of opioids, must be aware of safe opioid prescribing practices for acute and chronic pain to prevent, albeit inadvertently, the misuse of opioids. APRNs who prescribe opioids should be familiar with other applicable guidelines and the Joint Statement on Pain Management issued by the Minnesota Boards of Medical Practice, Nursing and Pharmacy. (<http://mn.gov/boards/nursing/practice/topics/pain-management.jsp>). In addition, the Fall publication of the Minnesota Board of Nursing Newsletter: *For Your Information* included the article Safe Prescribing of Opioids. The article may be accessed with this link http://mn.gov/boards/assets/Newsletter_Fall_2015_tcm21-70835.pdf

National Council of State Boards of Nursing Offers Helpful Resources on the Use of Social Media

With the growth of online media, nurses are increasingly using blogs, forums and social networking sites to share their experiences. While these outlets provide a venue for a nurse to express his or her feelings and reflect or seek support from friends, colleagues and peers, it's also important that they know the risks and use social media in a way that protects patients. Inappropriate disclosures on social media are unintentional in most cases, so educating nurses so that they do not inadvertently violate patient privacy and confidentiality is important.

Take The Social Media Quiz

Our Nursing and Social Media Quiz is a fun and easy-to-share way to learn the basics, and may be accessed from this link <https://www.qzzr.com/c/quiz/157691/nursing-and-social-media-quiz-copy>

Watch The Video

Inappropriate posts on social media by nurses have resulted in licensure and legal repercussions. NCSBN's *Social Media Guidelines for Nurses* video covers guidelines on using social media responsibly, with examples of inappropriate social media use.

Order Free Printed NCSBN Resources

The brochure, *A Nurse's Guide to the Use of Social Media*, (<https://www.ncsbn.org/347.htm>) is designed to help both new and experienced nurses understand how social media can be properly used in the profession. It covers potential consequences for violating patient confidentiality, explains common myths and misunderstandings about social media, and provides tips for how nurses can use social media appropriately. Our posters, *Social Media in Nursing: Understand the Benefits and the Risks* (<https://www.ncsbn.org/6842.htm>) and *Common Myths and Misunderstandings of Social Media*, (<https://www.ncsbn.org/6843.htm>) are designed as companion pieces to the brochure.

Social and electronic media possess tremendous potential for strengthening personal relationships and providing valuable information to health care consumers. Nurses need to be aware of the potential ramifications of disclosing patient-related information. NCSBN hopes you find these resources helpful and informative, and that they are shared with colleagues and students.

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Welcome to New Director for Nursing Education

Dr. Marilyn Krasowski was named Director for Education in January, 2016. Prior to accepting this position, Dr. Krasowski was an educator in the Minnesota State Colleges and Universities (MnSCU) system. In MnSCU, she served as nursing faculty, nursing program director, Dean of Health and Service Programs and as Interim Vice President for Academic Affairs at Saint Paul College and Hennepin Technical College. Between 2010 and 2014, she was appointed by the Governor as a member of the Minnesota Board of Nursing. The experience and expertise of Dr. Krasowski makes her well qualified to understand the challenges of and requirements for nursing programs in Minnesota.

Joint Statement on the Impact of Health Conditions and Medication Use on the Operation of Vehicles

The National Transportation Safety Board (NTSB) has recommended that health care providers discuss with patients the effect their medical condition and medication use may have on their ability to safely operate a vehicle in any mode of transportation. In September of 2014, the NTSB published a safety study, Drug Use Trends in Aviation: Assessing the Risk of Pilot Impairment, SS 14/01, available at <http://www.nts.gov/safety/safety-studies/Documents/SS1401.pdf>. The background and basis for the recommendations may be found on pages 36-38 of the report. In follow-up to the NTSB recommendations, the tri-regulatory Boards of Medical Practice, Nursing, and Pharmacy developed this Joint Statement on the Impact of Health Conditions and Medication Use on the Operation of Vehicles. For the purposes of this Statement, "vehicle" refers to the operation of a vehicle in any mode of transportation.

The Joint Statement is meant to offer guidance to pharmacists and licensed healthcare providers who are authorized to prescribe medications. To effectively assist patients with medical conditions or medications that may impair an individual's ability to operate a vehicle, health professionals should, within their scopes of practice:

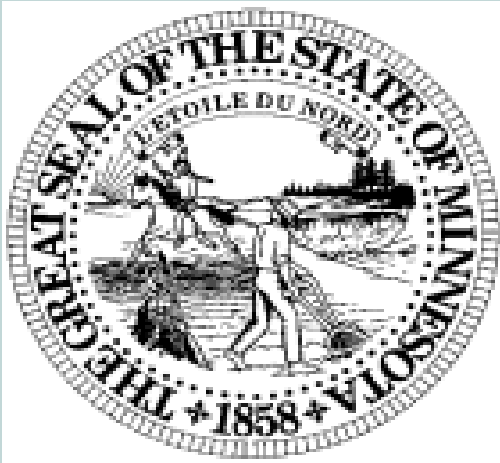
- Provide education to patients regarding medical conditions and medications, including prescription, over-the-counter, and dose increases, that may impact their ability to operate vehicles safely.
- Educate patients regarding drug interactions bearing in mind the combination of medications, health conditions, and/or alcohol, and the potential for additive effects or resultant increases in central nervous system depressant effects, and the impact these interactions may have on an individual's ability to operate a vehicle.
- Exercise increased clinical vigilance when patients are instructed to consume concurrent medications that cause central nervous system depression and carefully consider the risks associated with such combinations.
- Engage the patient, family members, and caregivers as active participants in medications or health conditions that may impair the patient's ability to operate a vehicle.
- Provide consultation on all new prescriptions and refills and with patients. Pharmacists are required to provide such consultation pursuant to MN Rule 6800.0910.
- Ensure that drugs that are administered systemically as controlled substances under Minnesota Statutes, chapter 152, and parts 6800.4200 to 6800.4250, and other drugs deemed appropriate in the professional judgment of a pharmacist, are labeled according to the requirements of part 6800.3400 and in addition contain the following: "Caution: Taking this drug alone or with alcohol may impair your ability to drive." Additionally, ensure controlled substances are also labeled: "Caution: Federal law prohibits the transfer of this drug to any person other than the patient for whom it was prescribed" pursuant to MN Rules 6800.4150.
- Comply with all state and federal laws and regulations regarding prescribing, dispensing, and administering drugs including but not limited to MS 147, 147A, 148.235, 151 and 152.

The *Joint Statement on the Impact of Health Conditions and Medication Use on the Operation of Vehicles* may be accessed on each board's website:

Medical Practice - <http://mn.gov/boards/medical-practice/>

Nursing - <http://mn.gov/boards/nursing/>

Pharmacy - <http://mn.gov/boards/pharmacy/>



Minnesota Board of Nursing

Link to Board member profiles:

<http://mn.gov/health-licensing-boards/nursing/about-us/about-the-board/current-board-members.jsp>

How to become a Board member:

<http://mn.gov/health-licensing-boards/nursing/about-us/about-the-board/current-board-members.jsp>

Minnesota Board of Nursing Members

Board Member Name	Board Role
Cindy DeJarlais	LPN Member
Jeanine Gangeness	RN Member
Becky Gladis	LPN Member
Deborah Haagenson	RN Member, Board President
Michelle Harker	Public Member
Bradley Haugen	RN Member
June McLachlan	RN Member
Deborah Meyer	LPN member, Board Secretary
Robert Muster	RN Member
Christine Norton	Public Member
Jan Rainey	Public Member
Christine Renne	Public Member
Sheila Robley	LPN Member
Sue Sendelbach	RN Member, Board Vice President
Steven Strand	RN Member
Natya Stroud	RN Member

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The Board of Nursing recognizes that consideration of the enhanced NLC will require active engagement of stakeholders across our state to determine the best direction for Minnesota. The Board is planning for opportunities to facilitate stakeholder discussions around the enhanced NLC in the coming months. Please watch the Board's website for more information about these opportunities. I hope you will decide to be part of the conversation.

Thank you,

Deb Haagenson

National Council of State Boards of Nursing Video for New Nurses – Your License to Practice

This video addresses key issues for new nurse. Nurses new to practice or preparing for their first nursing jobs can learn the ways the profession is regulated – through nursing licensure, board of nursing and state laws called the Nurse Practice Acts. Also covered are key issues of professional responsibility, including maintaining professional boundaries, and nursing ethics. The video is free and may be viewed by following this link:

<https://www.ncsbn.org/8243.htm>